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SIPDIS

FOR INL, EB/IPC, AF/EPS, AND AF/S
DEPT PASS USTR FOR P COLEMAN AND V ESPINEL

E.O. 12958: N/A

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SUBJECT: 2005 IPR TRAINING AND TECHNICAL ASSISTANCE PROGRAM
- PROPOSAL FOR WORKSHOPS WITH MAGISTRATES

REF: (A) STATE 48295; (B) 2004 PRETORIA 1437; (C) 2004

PRETORIA 1271; (D) 2004 STATE 42798

1. In response to refel A request for project proposals, post submits a \$18,650 budget request to conduct workshops for South African magistrates in the enforcement of South African intellectual property laws. The proposal is based on the workshops we did in 2004 and 2005 in South Africa. Working through the Intellectual Property Action Group (IPACT), South African IPR lawyers conducted sessions with South African national prosecutors in Johannesburg, Polokwane, Nelspruit, Kimberley, Bloemfontein, Cape Town, Port Elizabeth, and Durban, the major cities in eight South African provinces-Gauteng, Northern Province, Mpumalanga, Northern Cape, Free State, Western Cape, Eastern Cape, and KwaZuluNatal.

2. For institutional reasons, it was not considered appropriate to have the prosecutors and the magistrates in the same room. Though we were able to do one small workshop with some magistrates, this year we focused on the prosecutors. The turnout of about 300 national prosecutors was impressive. A frequent comment by the national prosecutors was that we should do the same program for the magistrates. Therefore, we propose a series of workshops in the coming year for South African magistrates on IPR law.

3. The one-day program would include industry videos on anti-piracy; lectures by IPACT lawyers on copyright law, trademark law, and procedures under South Africa's Counterfeit Goods Act; and discussion of: expert evidence preparation; admission of guilt; evidence and presumptions; chain of evidence; analysis of product; the use of civil orders in criminal proceedings; sentencing; and knowledge. The budget would cover the costs of contracting for the venue and associated travel costs for Embassy officer to participate.

4. Proposed budget

City	Venue	Travel & per diem of Embassy officer
Johannesburg	2,500	-0-
Polokwane	1,000	650
Nelspruit	1,000	650
Kimberley	1,000	650
Bloemfontein	1,000	700
Cape Town	3,000	1,050
Port Elizabeth	2,000	750
Durban	2,000	700
Subtotal	13,500	5,150
Total	\$18,650	

5. IPACT presenters include representatives of the best IPR law firms in South Africa as well as the Recording Industry of South Africa (RISA), the South African Federation Against Copyright Theft (SAFACT), the Business Software Alliance, and Microsoft. Embassy has been able to keep the costs down of the workshops by handling many of the logistics with our own resources rather than hiring an events coordinator as envisioned last year. Similarly, other IPACT members donated training materials, which also contained costs.

6. IPR piracy in the form of counterfeits of U.S. products including software, DVDs, and CDs is a major problem in South Africa. While the laws on the books are adequate, there has not been sufficient enforcement. In the past year, IPACT worked with South Africa's National Prosecuting Authority (NPA) to address these issues by conducting workshops on South Africa's IPR laws as outlined above. The workshops have been successful because they allowed prosecutors to spend an entire day focused solely on IPR laws. The prosecutors asked practical questions at the workshops. Some prosecutors, for example, were not previously aware of South Africa's Counterfeit Goods Act and had relied almost exclusively on the customs statute to seize counterfeit goods. They said they would use this knowledge to be more effective in enforcing IPR laws.

17. At the workshops, the U.S. Embassy representatives have raised awareness of the importance of IPR enforcement on both U.S. and South African jobs and of the U.S. "STOP" initiative - Strategy Targeting Organized Piracy. The cooperation of the NPA in directing hundreds of South African prosecutors to attend the workshops demonstrates the willingness of South Africa's political will to attack intellectual property crime. The participation of so many prosecutors, including the local chief prosecutor, is another sign of senior level engagement by public officials. Similarly, the completion of evaluation sheets by the prosecutors provided useful advice on how we can improve the training.

18. After many years of merely discussing IPR issues, IPACT finally got training off the ground this past year with the U.S. Embassy's support of these workshops with INL funding. We would like to continue the momentum we have achieved by extending these workshops to the magistrates in the coming year. In the longer term, we would hope to continue these IPR enforcement training programs on an annual basis at appropriate target audiences. U.S. funding will allow IPACT to be able to build on the success of what we have started.

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